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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/018,887

12/26/2001

Milos Lapcevic

LAPCEVIC=1

8381

1444

7590

03/01/2004

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EXAMINER

BOGART, MICHAEL G

ART UNIT

PAPER NUMBER

3761

DATE MAILED: 03/01/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/018,887

Applicant(s)

LAPCEVIC, MILOS

Examiner

Michael G. Bogart

Art Unit

3761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 22 January 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-3, 8-10, 16, 17, 26, 27, 37-44, 47, 49-51, 53, 57, 58, 70, 76-78 and 80-85 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 8-10, 76-78, 80 and 81 is/are allowed.
- 6) ☒ Claim(s) 1-3, 26, 37 and 70 is/are rejected.
- 7) ☒ Claim(s) 16, 17, 27, 38-44, 47, 49-51, 53, 57, 58 and 82-85 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 December 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |                                                                                                                        |                                                                                         |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                                                       | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____                                                |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

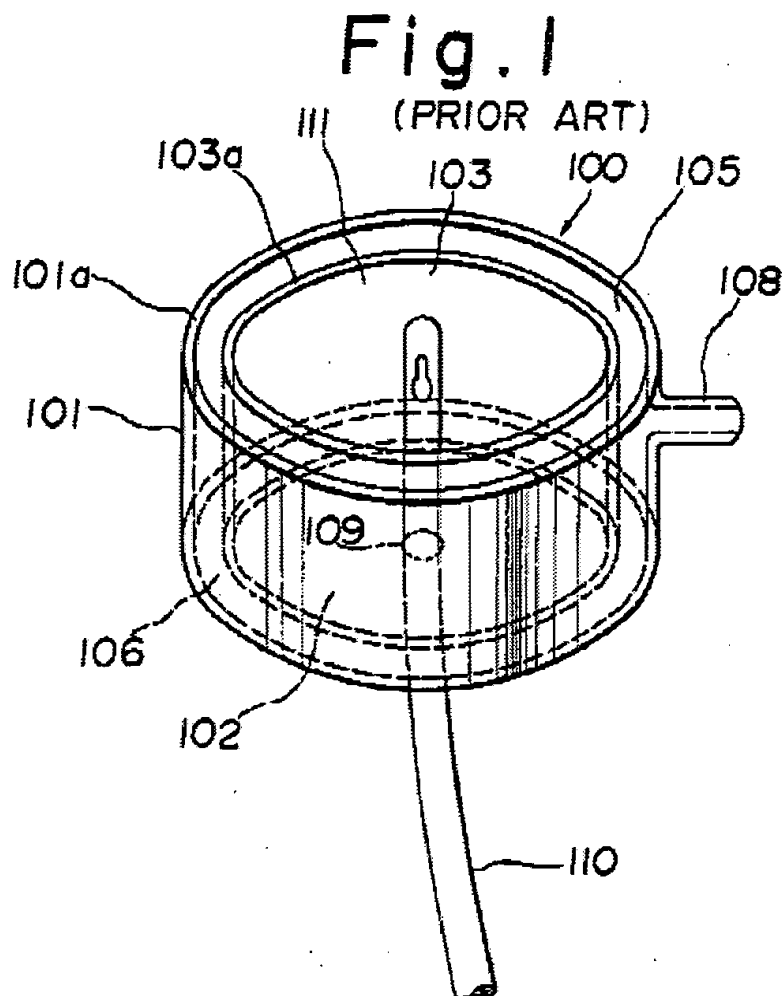
A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, 26, 37, and 70 are rejected under 35 U.S.C. § 102(b) as being anticipated by Sarashina (US 4,413,994).

Regarding claims 1 and 2, Sarashina teaches a device (100) for evacuating waste product through an orifice in a mammalian body, the device (100) including a chamber (111) having an inlet (defined by wall edge, (103a)) and an outlet (108), the inlet being able to be brought into abutment with the body over the orifice and the outlet (108) being connectable to a suction means adapted to provide suction to the area surrounding the orifice and the orifice itself, the device (100) further including an irrigating means (110) for introducing an irrigating fluid into the orifice, the irrigating means (110) having a free end that is movable relative to the chamber (105) between at least a first position outside the orifice and a second position at least partially within the orifice (Fig. 1, below, Col. 1, line 19-col. 2, line 9).

Regarding claim 3, Sarashina teaches the inlet of the chamber seals with the body about the orifice (Col. 1, lines 61-65).



Regarding claims 26 and 37, Sarashina teaches irrigating means (110) comprising a catheter having at least one lumen in fluid contact with an orifice for the passage of irrigation fluid and a free end for insertion into the bodily orifice of a user (Fig. 1).

Regarding claim 70, see Col. 1, lines 7 and 8.

### ***Response to Arguments***

Applicant's arguments filed January 22, 2004 have been fully considered but they are not persuasive.

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Applicant asserts that the device disclosed by Sarashina provides a region of suction around and not over a stoma, in order to hold the device in place. Applicant further asserts that the device disclosed by Sarashina is not designed to suction out matter from within stoma.

This argument is not persuasive because Sarashina does in fact show an irrigation device which uses suction to adhere to a persons belly over and around a stoma opening (Fig. 1, Col. 1, lines 19-68). When in use, suction is being applied to the orifice (and not just the area surrounding the orifice), even if it is not sufficient to extract wastes. The claimed invention recites no physical structure which distinguishes it from the device disclosed by Sarashina.

#### ***Allowable Subject Matter***

Claims 8-10, 76-78, 80 and 81 are allowed.

Claims 16, 17, 27, 38-44, 47, 49-51, 53, 57, 58, and 82-85 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period

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will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Bogart whose telephone number is (703) 605-1184. The examiner can normally be reached Monday-Friday.

The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9306 for regular communications and (703) 746-3380 for informal communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 306-0858.



Michael Bogart  
February 11, 2004



JOHN J. CALVERT  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3700